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EXAMINER

DESIR, PIERRE LOUIS

ART UNIT

PAPER NUMBER

2681

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/051,616 | Applicant(s) DILLARD ET AL. | |
| | Examiner Pierre-Louis Desir | Art Unit 2681 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 21-30 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 and 21-30 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-10, 21-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 8-9, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod et al. (Herrod), U.S. Patent No. 6405049 in view of Okada, U.S. Patent No. 6317614.

Regarding claim 1, Herrod discloses a method for collecting stocking data restaurant (i.e., collecting stocking data as related to any enterprise relying on fast and efficient data flow) (see col. 9, lines 15-19) via a hand-held computer (see fig. 2b) and transmitting the data to a data center (see col. 31, lines 34-48), the method comprising the steps of: removing the hand-held computer from a cradle at the restaurant (or an enterprise relying on fast and efficient data flow) (see col. 11, lines 22-23); receiving the stocking data, while the removed hand held computer is operating in an off-line mode (i.e., barcode input can be stored in the terminal) (see col. 7, lines 25-26); storing the stocking data, in response to a determination that the receipt of the stocking data is complete (see col. 7, lines 21-31); establishing a communication link with between the

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hand-held computer and the data center, in response to a determination that the independent handheld computer has been returned to the cradle, thereby placing the hand held computer in an on-line mode (the cradle/terminal interface is a physical interface which operates during, and can be enabled by, insertion of the terminal 10 into the recess 14 of the cradle 12. the cradle then communicates the downloaded information to the host, and allows communication of update/application information from the host to the terminal) (see col. 6, lines 30-38 and col. 7, lines 36-38); transmitting the stocking data to the data center via the communication link, while the independent hand-held computer is operating in an on-line mode (see col. 7, lines 36-38, and col. 31, lines 29-48).

Although Herrod discloses a method wherein transmission of stocking data to a restaurant (or enterprise relying on fast and efficient data flow) to a supplier (i.e., used for inventorying in warehouses or general product tracking, using graphic icons to represent the products and allow quick, user-friendly accessing of background, ordering or destination information) (see col. 12, line 66 through col. 13, line 3), Herrod does not specifically disclose a method comprising the step of displaying an indication that transmission of the stocking data to the data center is in progress, wherein the data center is operative to transmit the stocking data to a restaurant supplier that supplies the restaurant based on the stocking data.

However, Okada discloses a method wherein the display portion may indicate the status of the transmission or reception of data and may indicate whether a connection has been established with the remote data transmitter or receiver (see col. 4, lines 20-23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both teachings to arrive at the claimed invention. A

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motivation for doing so would have been to provide to the user real-time communication status.

Regarding claim 2, Herrod discloses a method (see claim 1 rejection) further comprising the step of transmitting a standard restaurant (or enterprise relying on fast and efficient data flow) supply order from the data center to the hand-held computer, while the hand-held computer is operating in the on-line mode (see col. 12, line 66 through col. 13, lines 3, and col. 31, lines 29-48).

Regarding claim 8, Herrod discloses a method (see claim 1 rejection) 1, wherein the step of receiving the stocking data further comprises associating the stocking data with an employee of restaurant (or enterprise relying on fast and efficient data flow) who uses the hand-held computer (i.e., the shelf stacker, inventory officer or other relevant personnel could enter their user identification information to the cradle prior to removing the terminal such that the terminal is initialised appropriately) (see col. 12, lines 62-67).

Regarding claim 9, Herrod discloses a method (see claim 1 rejection), further comprising the step of configuring: a touch-activated display on the hand-held computer to render visual output in one of four supported orientations according to user preference (see col. 11, lines 8-13).

Regarding claim 21, Herrod discloses a method (see claim 1 rejection) wherein the handheld computer comprises an ambidextrous grip channel, extending along substantially an entire edge of the handheld computer that accommodates a user's thumb (i.e., the terminal is preferably shaped with ergonomic consideration allowing easy use, carrying, and storage by the user) (see fig. 4a, col. 9, lines 27-30).

4. Claims 3-7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod and Okada in view of Burton.

Regarding claim 3, the combination discloses a method as described above (see claim 1 rejection).

Although the combination discloses a combination as described, the combination does not specifically disclose a method wherein receiving the stocking data comprises modifying the standard restaurant supply order according to current needs of the restaurant.

However, Burton discloses a method wherein graphical custom orders may include orders for customizable items in which a user selects an item and then graphically selects a customization feature or option with which to modify the selected item. Accordingly, an indication of an item may be received and a graphical (see paragraph 25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both teachings to arrive at the claimed invention. A motivation for doing so would have been to provide a method of identifying or tracking orders placed in connection with a client (page 1, paragraph 10).

Regarding claims 4 and 6, Herrod and Okada (the combination) disclose a method as described above (see claim 1 rejection).

Although the combination discloses a method as described, the combination does not specifically disclose a method wherein the data center is further operable to connect a plurality of second restaurants to a plurality of second restaurant suppliers.

However, Burton discloses a method wherein when a prospective purchaser desires to participate with other prospective purchasers in ordering supplies or services via an e-commerce system, the prospective purchaser may need to perform a number of tasks. Necessary tasks may include informing the others about a prospective ordering event, providing them with information about suppliers or suppliers' catalogs, polling them for selections of suppliers or items, assembling all of the selections into a single order, submitting the order to a selected supplier (see paragraph 13). Also, database server 105 may store attributes of users and suppliers, orders, order-related information, and catalog information. Database server 105 is shown as being connected to server 104 via Internet 100 and server 114 via network 110 (see paragraph 113) wherein users, suppliers, and any ordering system personnel may interact with system 101 using an access device such as access devices 102 or a personal computer such as personal computer 112 (see figs. 1-3, paragraph 114). Thus, through the database server, a plurality of users or purchasers can be connected to a plurality of suppliers to transmit stocking orders (as related to claim 6).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as disclosed to arrive at the claimed invention. A motivation for doing so would have been to provide a method of identifying or tracking orders placed in connection with a client (page 1, paragraph 10).

Regarding claim 5, Herrod and Okada (the combination) disclose a method as described above (see claim 4 rejection).

Although Herrod discloses a terminal associated with a cradle for receiving stocking orders (see claim 1 rejection), the combination does not specifically disclose a

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method wherein each of the plurality of second restaurants uses an individualized version of the hand-held computer for receiving stocking orders and a cradle for establishing communication with the data center.

However, Burton discloses a method wherein users, suppliers, and any ordering system personnel may interact with system 101 using an access device such as access devices 102 or a personal computer such as personal computer 112 (see paragraph 114). Thus, one skilled in the art would immediately envision individualized access devices are used by the users or purchasers.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as disclosed to arrive at the claimed invention. A motivation for doing so would have been to provide a method of identifying or tracking orders placed in connection with a client (page 1, paragraph 10).

Regarding claim 7, Herrod and Okada (the combination) disclose a method as described above (see claim 5 rejection).

Although the combination discloses a method as described, the combination does not specifically disclose a method wherein the data center is coupled to a remote data processing system that provides a clearinghouse for the plurality of second restaurant suppliers.

However, Burton discloses a method wherein an e-commerce system is used to generate sales for suppliers by facilitating sales to purchasers, an e-commerce system provider (data processing system that provides a clearinghouse) may receive commissions in compensation for facilitating sales. An e-commerce provider may facilitate sales for a large number of suppliers (see paragraph 14). Thus, Knowing the fact

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that Database server 105 is connected to server 104 via Internet 100 and server 114 via network 110 (see paragraph 113) wherein users, suppliers, and any ordering system personnel may interact with system 101 using an access device such as access devices 102 or a personal computer such as personal computer 112 (see figs. 1-3, paragraph 114), one skilled in the art would unhesitatingly conceptualize that the database server is coupled to e-commerce system provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both references to arrive at the claimed invention. A motivation for doing so would have been to ensure the accuracy and authentication of the of the supply order.

Regarding claim 10, the combination discloses a method as described above (see claim 1 rejection).

Although the combination discloses a combination as described, the combination does not specifically disclose a method wherein the data center is further operative to: aggregate the stocking data with other stocking data from other restaurants; consolidate the aggregate stocking data; format the aggregate stocking data according to a format requirement of the restaurant supplier's and store a data transmission profile for the restaurant supplier; wherein transmitting the stocking data to the restaurant supplier comprises transmitting the formatted stocking data according to the transmission profile.

However, Burton discloses a method for ordering supplies from suppliers or for other e-commerce activities. Standards for placing orders and registering catalog information in a database are described. Systems and methods for placing orders, preprocessing supplier information using geographic information, conducting data

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searches and analyses locally on user access devices, continuously updating displays of browser frames, tracking orders using accounting codes, placing graphical custom orders, submitting graphical orders to suppliers, placing group orders (see abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both teachings to arrive at the claimed invention. A motivation for doing so would have been to provide a method of identifying or tracking orders placed in connection with a client (page 1, paragraph 10).

5. Claims 22-27, 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod in view of Burton et al. (Burton), Pub. No. US 20020055878.

Regarding claim 22, Herrod discloses a method for ordering, comprising the steps of: receiving, at a hand-held computer docked in a cradle at a restaurant (or enterprise relying on fast and efficient data flow) (see claim 1 rejection), a predetermined data from a data processing center (the cradle is arranged to upload/download information to and from the portable device (see abstract); placing the hand-held computer in an off-line mode (see col. 11, lines 22-39); removing the hand-held computer from the cradle (see col. 11, lines 22-23); transporting the off-line hand-held computer through a supply area of the restaurant (i.e., as the customer moves about the retail outlet the access points broadcast to the terminal. The terminal uses known prioritising systems and/or algorithms to accept signals only from the nearest access point. The access point transmits information concerning products available in the locality of the terminal for display on the display) (see col. 10, lines 37-44); adapting the predetermined data according to an inventory of the supply area in response to incrementing or decrementing a quantity of a

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line item on the predetermined data (i.e., used for inventorying in warehouses or general product tracking, using graphic icons to represent the products and allow quick, user-friendly accessing of background, ordering or destination information) (see col. 12, line 66 through col. 13, line 3); returning the hand-held computer to the cradle and placing the hand-held computer in an on-line mode (see col. 6, lines 30-38 and col. 7, lines 36-38); and in response to the returning step, transmitting the adapted data to the data processing center that stores data transmission profiles (see col. 6, lines 30-38, and col. 31, lines 29-48, col. 13, lines 16-25).

Although Herrod discloses a method as described, Herrod does not specifically disclose a method related to food supply order, food distributors, nor does he disclose a data processing center that aggregates and consolidates the adapted food order with food supply orders of other restaurants; and formats and transmits the aggregated and consolidated food supply orders to a food distributor of the plurality of food distributors according to one of the stored data transmission profiles.

However, Burton discloses a method for ordering supplies from suppliers or for other e-commerce activities are described. Standards for placing orders and registering catalog information in a database are described. Systems and methods for placing orders, preprocessing supplier information using geographic information, conducting data searches and analyses locally on user access devices, continuously updating displays of browser frames, tracking orders using accounting codes, placing graphical custom orders, submitting graphical orders to suppliers, placing group orders (see abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both teachings to arrive at the claimed invention. A

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motivation for doing so would have been to provide a method of identifying or tracking orders placed in connection with a client (page 1, paragraph 10).

Regarding claim 23, Herrod discloses a method as described above (see claim 22 rejection).

Although Herrod discloses a method as described, Herrod does not specifically disclose a method wherein the data processing center further stores transmission histories and validates the adapted food supply order.

However, Burton discloses a method wherein the transmission histories are stored (i.e., reviewing order history) (see paragraph 369) and the food supply order is validated (i.e., validation processes are performed) (see paragraph 23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both references to arrive at the claimed invention. A motivation for doing so would have been to ensure the accuracy and authentication of the of the supply order.

Regarding claim 24, Herrod discloses a method as described above (see claim 22 rejection).

Although Herrod discloses a method as described, Herrod does not specifically disclose a method wherein the data processing center is coupled to a data processing system that functions as a clearinghouse for the plurality of food distributors.

However, Burton discloses a method wherein an e-commerce system is used to generate sales for suppliers by facilitating sales to purchasers, an e-commerce system provider (data processing system that provides a clearinghouse) may receive commissions in compensation for facilitating sales. An e-commerce provider may

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facilitate sales for a large number of suppliers (see paragraph 14). Thus, Knowing the fact that Database server 105 is connected to server 104 via Internet 100 and server 114 via network 110 (see paragraph 113) wherein users, suppliers, and any ordering system personnel may interact with system 101 using an access device such as access devices 102 or a personal computer such as personal computer 112 (see figs. 1-3, paragraph 114), one skilled in the art would unhesitatingly conceptualize that the database server is coupled to e-commerce system provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both references to arrive at the claimed invention. A motivation for doing so would have been to ensure the accuracy and authentication of the of the supply order.

Regarding claim 25, Herrod discloses a method (see claim 22 rejection) wherein the receiving step comprises receiving inventory data (i.e., inventory is updated continually) (see col. 20, lines 42-60).

Regarding claim 26, Herrod discloses a method (see claim 22 rejection) wherein the transporting step comprises receiving a user's thumb with an ambidextrous groove on the hand-held computer (i.e., the terminal 10 is preferably shaped with ergonomic considerations in mind allowing easy use, carrying and storage by the user) (see fig. 4a, and col. 9, lines 27-30).

Regarding claim 27, Herrod discloses a method (see claim 22 rejection) further comprising the step of viewing a display of the hand-held computer through a window in the cradle while the hand-held computer is docked (see fig. 1).

Regarding claim 29, Herrod discloses a method (see claim 22 rejection) further comprising the step of assigning accountability for the order to an employee (or user) of that enters an identification code into the hand-held computer (see col. 3, lines 19-29).

Regarding claim 30, Herrod discloses a method (see claim 29 rejection) further comprising the step of configuring a touch-activated display on the hand-held computer to render visual output in one of at least two possible orientations according to whether the employee is right-handed or left-handed (see col. 11, lines 8-13).

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod and Burton in further view of Okada.

The combination (Herrod and Burton) discloses a method as described above (see claim 27 rejection).

Although the combination discloses a method as described, the combination does not specifically disclose a method further comprising the step of showing on the display a graphic that indicates progress of transmitting the adapted food supply order to the data processing center.

However, Okada discloses a method wherein the display portion may indicate the status of the transmission or reception of data and may indicate whether a connection has been established with the remote data transmitter or receiver (see col. 4, lines 20-23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both teachings to arrive at the claimed invention. A motivation for doing so would have been to provide to the user real-time communication status.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Louis Desir whose telephone number is 703-605-4312. The examiner can normally be reached on (571) 272-7799.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre-Louis Desir

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07/21/2005

JEAN GELIN
PRIMARY EXAMINER

